

# **EXHIBIT A**

**HAGENS BERMAN**

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August 9, 2016

**VIA OVERNIGHT MAIL and EMAIL**

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The Hon Sylvia Burwell  
Secretary  
U.S. Department of Health and Human  
Services  
200 Independence Ave., S.W.  
Washington, D.C. 20201

**Re: Proposed Settlement Agreement Regarding Resolution of MSP Claims  
Against Five NECC Settlement Funds**

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Dear Attorney Burdette *et. al.*:

I write as court-appointed Lead Counsel in the NECC litigation, and on behalf of the PSC, the Tort Trustee and attorneys around the country who represent the victims in the NECC healthcare catastrophe.

It has come to our attention that while the U.S. Department of Justice (“DOJ”) is reviewing and considering approval of the proposed Settlement Agreement (“Settlement Agreement”) that will resolve Medicare Secondary Payer Act claims against Five NECC Settlement Funds, the Centers for Medicare and Medicaid Services (“CMS”) has refused to provide victims and their attorneys information about CMS’s potential claim for reimbursement of health care costs against their recovery in the NECC Bankruptcy Settlement. Instead of providing a Conditional Payment Notice to those victims or their attorneys who contact CMS directly, CMS has issued the victims letters indicating there is a potential global settlement under negotiation and referring them instead to my office. I have attached a few examples of such a letter.

That agreement allows any victim or their attorney to opt-out of the procedures set forth in the Settlement Agreement for resolving CMS’s claim and allows that notice to be provided immediately after execution of the Agreement “without regard to any delay for court approval or otherwise.” While negotiating the Settlement Agreement and the opt-out procedures in that agreement, such a long delay in DOJ and CMS’s approval and implementation of the agreement was never contemplated and never made clear.

CMS’s unilateral decision to refuse to provide Conditional Payment Notices to victims, while at the same time delaying the process of finalizing and approving the Settlement Agreement, is delaying the resolution of CMS’s claims against individuals who have already decided they wish to opt-out of the agreement (not to mention delaying the resolution of CMS’s claims against the many victims who wish to avail themselves of the negotiated agreement.)

In order to expedite the resolution of CMS’s claims against individuals who have already decided to opt-out, I would request that CMS cease referring them to my office but instead provide them with the information relevant to CMS’s claim, including a Conditional Payment Notice if requested. This will allow these claimants to start the process of individually negotiating the resolution of CMS’s claim without waiting for the Settlement Agreement to be finalized and approved.

As always, we are available to discuss the details of this request or provide any additional information necessary.

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Very truly yours,

HAGENS BERMAN SOBOL SHAPIRO LLP

/s/ Thomas M. Sobol

Thomas M. Sobol

cc: Plaintiffs' Steering Committee (via e-mail)



May 09, 2016

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ROANOKE, VA 24014-0248



Beneficiary Name: [REDACTED]  
 Medicare Number: [REDACTED]  
 Date of Incident: September 07, 2012  
 Case Identification Number: [REDACTED]  
 Document Control Number: [REDACTED]

Dear [REDACTED]

The Benefits Coordination & Recovery Center (BCRC) has received communication regarding the above-referenced beneficiary.

For MSP recovery related to NECC cases, the CMS Central Office is currently working with the Plaintiffs' Steering Committee. Please contact Thomas Sobol (617-475-1950) or Ed Notargiacomo (617-475-1960) at Hagens, Berman, Sobol & Shapiro, LLP for any requests related to this case.

If you have any questions concerning this matter, please contact the Benefits Coordination & Recovery Center (BCRC) by phone at 1-855-798-2627 (TTY/TDD: 1-855-797-2627 for the hearing and speech impaired), in writing at the address below, or by fax to 405-869-3309. When sending correspondence, please include the Beneficiary Name along with the Medicare and Case Identification Numbers (shown above).



Sincerely,

BCRC Case Analyst

CC: [REDACTED]